IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

Bail Appl..No. 7787 of 2007()

CRIME NO.321/07 OF THE PAZHAYANGADI POLICE STATION
CRL.M.C.NO.1676/07 OF SESSIONS COURT, THALASSERY.

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PETITIONER :

MUHAMMED ALI, S/O. ABDUL SALAM,
AGED 20 YEARS,
MANHANADUVILE PURAYIL,
MATTUL AMSOM,
THEKKUMBADU, KANNUR.

BY ADV. SRI.K.B.GANGESH
SMT.SMITHA CHATHANARAMBATH

RESPONDENTS:

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1. STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. S.H.O., PAZHAYANGADI POLICE STATION.

BY P.P. SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No.7787 OF 2007

Dated this the 11th day of December, 2007

ORDER

Application for anticipatory bail. The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Sec.308 of the IPC. The petitioner was never arrested – at the crime stage or later. Investigation is complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. Committal proceedings has been registered. The petitioner was not available. The case against him has therefore been transferred to the list of Long Pending Cases. Coercive processes have been issued by the learned Magistrate. Such processes do chase the petitioner now.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. No offence

under Sec.308 of the IPC would really lie. On account of political animosity, allegation under Sec.308 of the IPC has been included. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But the petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with

the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

(R. BASANT, JUDGE)

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